

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA, BLUEFIELD DIVISION
BEFORE THE HONORABLE OMAR J. ABOULHOSN, MAGISTRATE JUDGE

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 5:19-CR-00247

NATALIE P. COCHRAN,

Defendant.

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TRANSCRIPT FROM AN ELECTRONIC RECORDING

INITIAL APPEARANCE

AND DETENTION HEARING

THURSDAY, SEPTEMBER 26, 2019, 12:00 P.M.

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BLUEFIELD, WEST VIRGINIA

THURSDAY, SEPTEMBER 26, 2019, 12:00 P.M.

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THE COURT: The next matter the Court has on the docket is an initial appearance in the case of the United States of America versus Natalie P. Cochran, case No. 5:19-CR-247.

Typically the Court only has defense counsel and the defendant in the courtroom. The Court did ask the United States Attorney's office to remain in the courtroom because I wanted to take up an initial matter in this matter. I know you may need some time to speak with your client, Mr. Johnson, but I wanted to bring this to the parties' attention.

Yesterday the Court entered an order in a related matter, a civil matter, in which I recused myself from that case because First Community Bank made an appearance in that civil case, and First Community Bank is on my list of recusal -- on my recusal list.

It's my understanding this morning from the agents that effected the arrest of Ms. Cochran this morning that she had made some indication to them that she thought that I had a conflict in this criminal matter. And I wanted to bring that to the parties' attention and see if anyone has an objection to me participating in this matter for the initial appearance and the arraignment and detention hearing in this matter.

1 And if you need some time to discuss that with your
2 client, Mr. Johnson, I'll certainly give you that time, but I
3 wanted you to know that that was an issue that we needed to
4 address initially before we went any further.

5 So I'll hear anything that you would like to say. If
6 you'd like for me to give you the time, I'll be glad to give
7 you that time as well.

8 MR. JOHNSON: May I have a moment, Your Honor?

9 THE COURT: Absolutely.

10 (Defendant conferring with her counsel.)

11 MR. JOHNSON: Thank you. Ms. Cochran is happy to
12 proceed before Your Honor.

13 THE COURT: Okay. So she doesn't perceive there is
14 any conflict? Because I had a conflict in a related civil
15 matter, clearly I had a conflict there, I don't believe that
16 it translates over to this because this is a criminal matter.
17 So I'll proceed in this case.

18 Now, do you need some time then to confer with your
19 client before we go into the initial appearance?

20 MR. JOHNSON: No, Your Honor.

21 THE COURT: All right. I can excuse the United States
22 at this time. I wanted you in here just in case we had to
23 discuss any -- anything about the recusal issue. So the
24 United States is excused at this time.

25 MS. HERRALD: Thank you, Your Honor.

1 THE COURT: Okay. All right. So, Ms. Cochran, if you
2 would please stand for me, ma'am, with your counsel.

3 Ms. Cochran, you've been arrested on an indictment
4 that has been filed against you. You have the right to remain
5 silent. You have the right to be represented by a lawyer and
6 the right to be considered for release on bond.

7 Do you understand those rights, ma'am?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. It's my understanding that you
10 completed a financial affidavit back in June of this year, and
11 you qualified for court-appointed counsel, and I've appointed
12 Mr. Johnson from the Federal Public Defender's office to
13 represent you.

14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Have you received a copy of the
17 indictment?

18 THE DEFENDANT: Umm, they showed me a copy of it, yes.

19 THE COURT: Okay. Have you had an opportunity to
20 review that at all?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. You're not going to be called upon
23 to plead to that today, but I want you to know that anything
24 you say can be used against you.

25 Do you understand that?

1 THE DEFENDANT: I couldn't hear you. I'm sorry.

2 THE COURT: I'm sorry.

3 I said you're not going to be called upon to plead to
4 that indictment today, but anything you say could be used
5 against you. Do you understand that?

6 THE DEFENDANT: I understand.

7 THE COURT: Okay. Could you tell me your full name,
8 please?

9 THE DEFENDANT: Natalie Paige Cochran.

10 THE COURT: Thank you, Ms. Cochran.

11 Can you read and write?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you have any physical or mental
14 problems that make it difficult for you to understand and
15 participate in court hearings?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. You have the right to remain
18 silent today and throughout your case. You have the right to
19 have your attorney present at all court proceedings. You have
20 the right to have your attorney present if the police want to
21 question you. You have the right not to make a statement, but
22 any statement you do make can be used against you.

23 Do you understand all that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. This indictment charges you

1 with numerous counts. It charges you with wire fraud in
2 Counts 1 through 11 and Count 17; charges you with bank fraud
3 in Count 12; aggravated identity theft, Counts 13 through 16;
4 unlawful money transactions in Counts 18 through 24;
5 bankruptcy fraud in Count 25; and false oath in a bankruptcy
6 proceeding in Count 26.

7 Okay. Your next court date is going to be your
8 arraignment date. That is going to be held this coming
9 Tuesday, October 1st, at 10 o'clock here in Beckley. At that
10 time, you'll enter a plea of not guilty, and you'll get your
11 judicial assignment and your trial date.

12 Do you understand all that, ma'am?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. The United States has filed a
15 motion for detention in this case asserting that you should
16 be -- you should not be released, that you should be in
17 custody during the pendency -- until your trial date. We're
18 going to hear that on Tuesday as well.

19 Do you understand that?

20 MR. JOHNSON: Your Honor, I'd like to be heard on that
21 issue.

22 THE COURT: Okay.

23 MR. JOHNSON: As I understand the statute, the United
24 States doesn't automatically get three days. They -- if they
25 motion for a continuance at the initial appearance, the Court

1 may continue it not to exceed three days.

2 So, I mean, as a matter of custom and practice,
3 usually this Court and the other magistrate judges in our
4 district will typically give the United States three days, but
5 it's not required by statute, and I'd ask the Court not to do
6 it in this case.

7 As Your Honor is aware, the government has been
8 looking at Ms. Cochran for months and months now. They don't
9 need three extra days to prepare. They know everything they
10 need to know to make whatever case they intend to make that
11 she's a serious risk of obstruction or flight, whichever boxes
12 they check. They don't need three extra days, and the only
13 purpose that it would serve is to hold her in jail
14 unnecessarily until that time.

15 So I'd ask the Court to schedule it for later this
16 afternoon or tomorrow.

17 THE COURT: Okay. The Court is going to note that
18 there are representatives of the United States Attorney's
19 office present in the courtroom, so let me have someone come
20 on back up again.

21 MS. HERRALD: May I approach, Your Honor?

22 THE COURT: Thank you. I appreciate it.

23 You were in the courtroom. You heard the argument of
24 Mr. Johnson. Do you think we can get the United States
25 Attorney that is in charge of this matter here in court this

1 afternoon?

2 MS. HERRALD: I can reach out to her and see if she is
3 available. Given that she is in Charleston at the moment --

4 THE COURT: Right.

5 MS. HERRALD: -- she would need at least some lead
6 time to drive.

7 And I am not sure if she has any witnesses who would
8 need to testify in addition to the agents who are present here
9 at the moment.

10 THE COURT: Okay. Well, I mean, I can -- I may be
11 able to split the baby in this, for lack of a better word.
12 And that is -- and I haven't talked to my probation office yet
13 to get any of the details on this case, but maybe we can still
14 have the detention hearing next Tuesday, but release her today
15 on some kind of home incarceration or home detention between
16 now and then.

17 What's the United States' position in that regard?

18 MS. HERRALD: The United States would be opposed to
19 that, Your Honor, primarily for -- and home incarceration
20 requires probation would check the residence, it requires a
21 land line, it requires installation of equipment. By the time
22 all that could be done, it would probably be time for that
23 hearing on Tuesday.

24 THE COURT: Let's do this. Let's take about 10
25 minutes or so, give you an opportunity to contact Ms. Robeson,

1 see if she can be here this afternoon and what time she can be
2 here, and I'll come back on the bench in about 10 minutes. In
3 the meantime, I can talk to my probation office as well.

4 Okay?

5 MS. HERRALD: I just want to add to that, one of the
6 many reasons that we ask for the three-day continuance is
7 because the probation office also has to do background
8 research that they simply do not have time to do prior to an
9 initial, and that is often essential to a question
10 particularly of risk of flight.

11 THE COURT: I understand, but I'll talk with my
12 probation department and get information from them.

13 So we'll be in recess for about 10 minutes. Okay?

14 MS. HERRALD: Thank you, Your Honor.

15 THE COURT: Thank you.

16 THE COURT SECURITY OFFICER: All rise. This Court is
17 in recess.

18 (Recess taken at 12:08 p.m.)

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BLUEFIELD, WEST VIRGINIA

THURSDAY, SEPTEMBER 26, 2019, 3:15 P.M.

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THE COURT SECURITY OFFICER: All rise. This Honorable Court is again in session. Please be seated and come to order.

THE COURT: All right. We're back on the record. This is the matter of the United States versus Natalie Cochran, 5:19-CR-247.

Counsel, note your appearance for the record.

MS. ROBESON: Good afternoon, Your Honor. Kathleen Robeson representing the United States.

THE COURT: Thank you.

MR. JOHNSON: Rhett Johnson on behalf of Ms. Cochran.

THE COURT: Thank you.

When we were previously in court, the government had filed a motion for detention in this matter. Mr. Johnson had requested that the hearing be held today. However, the government's requested a three-day continuance.

As I read the statute, counsel, I believe -- I mean, I don't read that there is any discretion in the statute from what I understand, that the government's request for a three-day continuance, they have a right to do so, and during that continuance the defendant has to be detained.

Mr. Johnson, I'll hear anything you have to say.

1 MR. JOHNSON: It says the government -- a continuance
2 on motion from the attorney for the government may not exceed
3 three days.

4 THE COURT: Sure.

5 MR. JOHNSON: It doesn't say they're automatically
6 entitled to three days.

7 THE COURT: Okay. But then the Court can continue it
8 for up to three days, correct?

9 MR. JOHNSON: Yes. And the Court cannot continue it
10 up -- you know, the Court cannot continue it -- I mean, Your
11 Honor is correct that Ms. Cochran has to be detained between
12 the initial and the detention hearing. But there is no -- the
13 government is not entitled to that three days. That is just a
14 ceiling, not a floor or not an entitlement.

15 You know, Your Honor threw out a suggestion earlier
16 about placing Ms. Cochran on home confinement pending a
17 detention hearing, and -- to which the government objected.
18 What the Court could do is begin the detention hearing now,
19 continue it until sometime next week and release her pending
20 the continuation of the detention hearing. That -- that would
21 be in keeping with the statute.

22 THE COURT: It says during the continuance, such
23 person shall be detained. I don't know that it does keep with
24 the statute.

25 MR. JOHNSON: But we can start the detention hearing

1 now.

2 THE COURT: That's right.

3 MR. JOHNSON: So then we've already started. So we're
4 past the period between the initial appearance and the
5 detention hearing.

6 THE COURT: Well, I don't know that I read the statute
7 to say -- well, let me hear from the government on this.

8 MS. ROBESON: The government reads the statute like
9 Your Honor does. We believe that the language under the
10 statute is clear, that upon any motion from the government for
11 the hearing, that the person does need to be detained in the
12 interim. However, as a courtesy to the Court, I'm prepared to
13 begin the hearing now if Your Honor would like.

14 THE COURT: That's fine.

15 Do you have witnesses to call?

16 MS. ROBESON: Your Honor, my main Secret Service agent
17 and my case agent are both not here, so I could call Agent
18 Fleming to testify if you'd like or I'm prepared to proffer
19 going forward.

20 THE COURT: Okay. I'll hear whatever you have to say
21 at this time, if you want to begin.

22 MS. ROBESON: Yes, Your Honor.

23 Your Honor, the government presents that Mrs. Cochran
24 is a serious flight risk under the statute. The indictment
25 alleges a theft of a large amount, around two and a half

1 million dollars. We've only accounted for about half a
2 million dollars. There were many cash withdrawals that are
3 simply not accounted for.

4 Also, there is evidence that Ms. Cochran has
5 previously tried to leave the area. She sent a text to
6 someone in June of this year voicing how she wanted to move.
7 She also put her house up for sale in July.

8 And we believe that Ms. Cochran has attempted to
9 obstruct justice multiple times in her bankruptcy proceeding.
10 As we charged in the indictment, we believe that she told the
11 bankruptcy court numerous lies. And she also, we believe,
12 lied to the bankruptcy court about things that are not charged
13 that pertain directly to this investigation, specifically
14 about seizures in this case she presented happened, and I
15 believe there is evidence to show assets that did not actually
16 happen, Your Honor.

17 THE COURT: Thank you.

18 Mr. Johnson?

19 MR. JOHNSON: Your Honor, if that is the sum of the
20 government's case, I would submit that they haven't carried
21 their burden that she presents a serious flight risk. We
22 didn't hear what those text messages are.

23 If Ms. Cochran wanted to move, it's hard to blame her
24 given the press she's received in the small town she lives in.
25 Wanting to move and relocate for the betterment of your

1 family, particularly your 12-year-old and 14-year-old children
2 who are being harassed at school over the allegations that are
3 leaked or presented in the paper, that doesn't make you an
4 international flight risk, Your Honor.

5 THE COURT: I understand there is a difference between
6 trying to make a decision to move versus attempting to flee.

7 MR. JOHNSON: Right, Your Honor.

8 And wanting to sell her house, Ms. Cochran is broke.
9 She filed bankruptcy because she has no money. She's trying
10 to, you know, get her life back together in the wake of her
11 husband's death and do right by her family. The government is
12 conflating all that and making it seem like she's some
13 mastermind flight risk.

14 She has significant medical conditions, two young
15 children. She's lived in this area pretty much her whole life
16 except for a brief period of time when she was in school and
17 then moved to Tennessee for about a year after school. I
18 mean, the idea that she is a flight risk is particularly
19 absurd, Your Honor. And the government cannot just stand here
20 and proffer that and make it so.

21 So I submit the government has not carried their
22 burden. There is not a rebuttable presumption in this case.
23 It doesn't even meet one of the enumerated things in the
24 statute that have to go down here to say she's a serious
25 flight risk or risk of obstruction. And, Your Honor, they

1 just haven't put on a serious enough case for this Court to
2 make that finding.

3 There certainly are conditions that would assure
4 Ms. Cochran's appearance. The Court could place her on home
5 confinement even though I submit that that is excessive in
6 this case. I mean, Ms. Cochran is -- you know, for lack of a
7 better term, Your Honor, she's a soccer mom. She's just
8 trying to get her kids to and from school, their
9 extracurricular activities, maintain a low profile as best she
10 can. She enrolled them in school in Greenbrier County
11 starting this year, ah, to keep them away from all the hubbub
12 surrounding her case in Raleigh County.

13 She's just trying to do what is right at this point.
14 That doesn't make her a flight risk. And I haven't heard
15 anything alleging that she's a danger, but it certainly
16 doesn't make her a danger, Your Honor.

17 As far as any serious risk she would obstruct justice,
18 the government's relying on things she said in open court. I
19 mean, I don't know the ins and outs of that, but there is a
20 difference between making a mistake and, you know, obstructing
21 justice. It's -- there is no suggestion that she has
22 intimidated any witnesses or tried to influence anybody's
23 testimony or anything like that that we would think, you know,
24 would be a risk that would compromise the integrity of this
25 case.

1 As far as her candidacy for release, you know, she
2 presents a very low risk for reoffending or fleeing. She is
3 educated. She worked as a pharmacist, ah, from -- upon her
4 graduation from WVU in 2005 all the way up to 2013, so she has
5 a strong employment history, Your Honor.

6 Significant family and social ties to this area. Her
7 father is here today and has agreed to serve as the third
8 party custodian. I mean, I can go on and on.

9 I know the probation office did a pretrial service
10 interview, and Your Honor has some information about
11 Ms. Cochran's profile and --

12 THE COURT: That is part of the problem that I have
13 today, counsel, is that even if I agreed with you, I don't
14 think there are conditions or set of conditions today that
15 would allow me to release her because I don't have a land line
16 phone to be able to set up home detention that the Court would
17 require if I did release her.

18 And your characterization of her as a soccer mom, when
19 I read the indictment in this case, it sounds a bit more
20 sophisticated to me than a soccer mom as far as the
21 allegations of fraud in this case. So, you know, I am
22 concerned about that.

23 But I do think the government does have a difficult
24 burden in establishing that she is a danger to the community
25 or to others and that she is a flight risk. I mean, I think

1 that is where the -- the real burden that the government has
2 right now. I think you've made a great argument as to what
3 the government's burden is at this point. I don't know if
4 they've sustained it in this early stage of involvement, so
5 I'm not disagreeing with you, I'm agreeing with you. But I do
6 think this is a more sophisticated defendant from what I read
7 in here.

8 And I realize it's just allegations, but to call her a
9 soccer mom, when I read this, it's kind of hard for me to
10 juxtapose those two positions. But as I stand here right now,
11 as I see her right now, I think there are conditions or a set
12 of conditions I could release her on, but I don't think those
13 conditions exist today.

14 MR. JOHNSON: Well, Your Honor, Ms. Cochran's father
15 could move with all deliberate speed to get Frontier to hook
16 up a land line --

17 THE COURT: But that's not going to be done today.

18 MR. JOHNSON: Not at this late hour.

19 THE COURT: Exactly.

20 MR. JOHNSON: I mean, we could have -- well, Your
21 Honor is correct, not at this late hour but perhaps done
22 tomorrow. I mean, Your Honor could hold her in detention
23 until the land line phone is set up.

24 THE COURT: Well, we'll discuss that.

25 I want to hear from the government in response to your

1 argument.

2 Counsel, my concern is on the government's position.
3 I understand this is a -- it is a major indictment. It is
4 pretty thick, it's one of the more thicker indictments I get.
5 It's very detailed, and it shows a very -- I mean, the
6 allegations are very serious in this indictment, so I
7 understand that. But that doesn't seal the day for the
8 government. The government has to show that she is a danger
9 to herself or others, or that there are no conditions or set
10 of conditions that would assure her appearance at trial.

11 And what I don't understand from the government's
12 position is, with GPS home confine -- home detention, not just
13 home confinement, home detention with a land line phone, why
14 couldn't that secure her -- I think the concern is flight,
15 isn't it? Where is -- I don't see anything in the
16 government's motion or heard anything from the government that
17 suggests she's a danger to others or the community.

18 MS. ROBESON: Yes, Your Honor, it is flight.

19 And I'm sorry, Your Honor, I neglected to mention
20 earlier that we believe she does have access to a private
21 plane if that carries the day. But I'm prepared to agree to
22 home detention if she can be confined until that land line is
23 set up. That's fine with the government.

24 THE COURT: That kind of settles that issue.

25 So here's what I'm going to do. I think -- I don't

1 think you can get a land line phone done in the next 24 hours
2 is my guess. So I'm going to -- I'm going to grant her a
3 bond, but I'm not going to grant it today. It won't be
4 effective today. But she has to pick where she's going to
5 live at. For my probation staff, they indicated it was either
6 at her house or at her father's home. Someone needs to pick a
7 place and tell me now which one it is.

8 MR. JOHNSON: She would prefer, for the interest of
9 her children, to stay in the home that she lives in now.

10 THE COURT: I know what she prefers. I'm going to put
11 her in the third party custodian of her father, so she has to
12 be where her father is going to be. Is her father going to
13 move into her home?

14 MR. JOHNSON: He's agreed to stay with her should the
15 Court require such and make him a third party custodian.

16 THE COURT: Okay. So I'm going to have to have the
17 home inspected by the probation department. I'm going to
18 require that there be a land line phone. She's going to be on
19 home detention. There will be other conditions, I don't have
20 those in front of me, and I'm not going to do the bond today.
21 So what I think we ought to do -- I'm not in tomorrow, so I
22 think we're going to have to come back on Monday. But Monday
23 I'm in Charleston -- what time are we in Charleston on Monday,
24 1 o'clock?

25 So I could do -- I could be in Beckley on Monday

1 morning to where we could do a hearing on Monday morning in
2 Beckley, and then I can proceed on to Charleston.

3 What's your schedule like, counsel?

4 MR. JOHNSON: I'm turning on my phone, Your Honor,
5 real quick.

6 THE COURT: Okay.

7 MS. ROBESON: I can be available Monday morning, Your
8 Honor.

9 THE COURT: Okay. And if she doesn't have a land line
10 phone in by Monday morning, then she'll be detained until the
11 land line phone is in. But I'll have all the paperwork for
12 the conditions of home confinement, home detention.

13 MR. JOHNSON: Your Honor, I renew my request that she
14 be released pending getting a land line set up. We do have
15 GPS technology that we seldom utilize.

16 THE COURT: Well, I utilize it all the time but I
17 don't know that that GPS signal for my probation staff is very
18 strong in that area, so I'm not too certain that we can get
19 that done. So that is why I'm saying we'll come back on
20 Monday to hopefully have it all set up and ready to go.

21 MR. JOHNSON: I'm available any time on Monday, Your
22 Honor.

23 THE COURT: Okay. So let's do 10 o'clock in the
24 morning in Beckley.

25 And by that time, the probation department will have

1 an opportunity to inspect the home?

2 THE PROBATION OFFICER: [Unintelligible].

3 THE COURT: Okay. And be prepared to have her set up
4 on that.

5 And while you're doing it, check and see if the GPS
6 signal is strong enough to be able to do GPS at that location
7 if the land line is not in by that time.

8 THE PROBATION OFFICER: Yes, Your Honor.

9 THE COURT: Okay. So I'll continue this matter until
10 Monday. The Court is going to remand her to the custody of
11 the United States Marshal Service until Monday morning at 10
12 o'clock. She'll be brought to Beckley, and we will proceed
13 from there.

14 Is there anything further to take care of at this
15 time?

16 MS. ROBESON: No, Your Honor, not from the government.

17 MR. JOHNSON: No, Your Honor.

18 THE COURT: Okay. Thank you. She'll be remanded to
19 the custody of the United States Marshal Service. We'll be in
20 recess.

21 THE COURT SECURITY OFFICER: All rise. Court is
22 adjourned.

23 (Proceedings were adjourned at 3:32 p.m.)

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1 CERTIFICATION:

2 I, Kathy L. Swinhart, CSR, court-approved transcriber,
3 certify that the foregoing is a correct transcription from the
4 official electronic sound recording of the proceedings in the
5 above-entitled matter on September 26, 2019.

6
7
8 December 3, 2019

9 DATE

10 /s/ Kathy L. Swinhart

11 KATHY L. SWINHART, CSR
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